

Title 257 WAC

HOME CARE QUALITY AUTHORITY

Chapters

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Chapter 257-01 WAC

AUTHORITY ORGANIZATION

WAC

257-01-020	Washington state home care quality authority—Function—Organization—Office.
257-01-040	Board meetings.
257-01-060	Authority activities exempt from Environmental Protection Act.

WAC 257-01-020 Washington state home care quality authority—Function—Organization—Office. The Washington state home care quality authority, hereinafter called "the authority," is the authority appointed by the governor pursuant to chapter 3, Laws of 2002 (Initiative Measure No. 775) established to regulate and improve the quality of long-term in-home care services by recruiting, training, and stabilizing the work force of individual providers.

The authority consists of a board of nine members appointed by the governor as follows: Five board members shall be current and/or former consumers of long-term in-home care services provided for functionally disabled persons, at least one of whom shall be a person with a developmental disability; one board member shall be a representative of the developmental disabilities planning council; one board member shall be a representative of the governor's committee on disability issues and employment; one board member shall be a representative of the state council on aging; and one board member shall be a representative of the Washington state association of area agencies on aging. Each board member serves a term of three years.

If a vacancy occurs, the governor will make an appointment to become immediately effective for the unexpired term. Each board member is eligible for reappointment and may serve no more than two consecutive terms. In making appointments, the governor will take into consideration any nominations or recommendations made by the groups or agencies represented.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-01-020, filed 10/6/04, effective 11/6/04.]

WAC 257-01-040 Board meetings. Meetings of the authority shall normally be held at the date, time, and place to be set by the board and as published in the *Washington State Register*. Additional public meetings necessary to discharge the business of the authority may be called from time to time by the chair or by a quorum of the board.

All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). A simple major-

ity of the board constitutes a quorum. Any matter coming before the board may be decided by a majority vote of those members present and voting. Minutes shall be taken at all meetings.

Written communications intended for board consideration or action shall be filed with the authority's administrative office.

[Statutory Authority: RCW 74.39A.280(3), 74.39A.230 (1) and (2). 06-20-049, § 257-01-040, filed 9/27/06, effective 10/28/06; 04-20-110, § 257-01-040, filed 10/6/04, effective 11/6/04.]

WAC 257-01-060 Authority activities exempt from Environmental Protection Act. The authority has reviewed its authorized activities and found them all to be exempt from the provisions of Title 197 WAC.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-01-060, filed 10/6/04, effective 11/6/04.]

Chapter 257-02 WAC

PUBLIC RECORDS

WAC

257-02-020	Purpose.
257-02-040	Definitions.
257-02-060	Public records officer.
257-02-080	Public records available.
257-02-100	Requests for public records.
257-02-120	Prompt responses required.
257-02-140	Fees.
257-02-160	Statement of reasons for denial of public records request.
257-02-180	Protection of public records.
257-02-200	Exemptions.

WAC 257-02-020 Purpose. The purpose of this chapter shall be to ensure compliance by the home care quality authority with the provisions of chapter 42.17 RCW dealing with public records.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-020, filed 10/6/04, effective 11/6/04.]

WAC 257-02-040 Definitions. The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and

other documents including existing data compilations from which information may be obtained or translated.

(3) "Home care quality authority" means the authority established by chapter 3, Laws of 2002 (Initiative Measure No. 775). The home care quality authority shall be referred to as the "authority." The term authority refers to the authority board and, where appropriate, to the employees of the authority.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-040, filed 10/6/04, effective 11/6/04.]

WAC 257-02-060 Public records officer. The authority executive director is the authority's public records officer. The public records officer is responsible for implementing the authority's administrative rules regarding release of public records, coordinating the staff of the authority in this regard, and insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-060, filed 10/6/04, effective 11/6/04.]

WAC 257-02-080 Public records available. All public records of the authority as defined in WAC 257-02-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310. Public records shall be available for inspection and copying during the customary office hours of the authority. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m., Monday through Friday excluding legal holidays.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-080, filed 10/6/04, effective 11/6/04.]

WAC 257-02-100 Requests for public records. (1) All requests for inspection or copying made in person at the authority's office shall be made on a form that includes:

- (a) The name and address of the person making the request;
- (b) The organization or group that the person represents;
- (c) The calendar date and time of day of the inspection request;
- (d) A description of the public records requested;
- (e) A statement that the record will not be used for commercial purposes.

(2) A request for inspection or copying of public records may be made by mail in a letter containing the following information:

- (a) The name and address of the person making the request;
- (b) The organization or group that the person represents;
- (c) The time of day and the calendar date on which the person wishes to inspect the public records;
- (d) A description of the public records requested;
- (e) A statement whether access to copying equipment is desired;
- (f) A phone number where the person can be reached in case the public records officer or designee needs to contact the person for further description of the material or any other reason;

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(g) A statement that the record will not be used for commercial purposes.

(3) All requests by mail should be received at the authority at least three business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection.

(4) The authority may, in its discretion, fill requests made by telephone.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-100, filed 10/6/04, effective 11/6/04.]

WAC 257-02-120 Prompt responses required. The authority shall respond promptly to requests for public records to ensure compliance with the provisions of RCW 42.17.320. Within five business days of receiving a public record request, the authority must respond by either:

- (1) Providing the record;
- (2) Acknowledging that the authority has received the request and providing a reasonable estimate of the time the authority will require to respond to the request; or
- (3) Denying the public record request.

In acknowledging receipt of a public record request that is unclear, the authority may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the authority shall not be required to respond to it.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-120, filed 10/6/04, effective 11/6/04.]

WAC 257-02-140 Fees. No fee shall be charged for inspection of public records. The authority will charge a fee of fifteen cents per page for providing copies of public records. This charge is to reimburse the authority for costs incident to such copying. Postal charges will be added when applicable. No copies of records will be provided to the requestor until all such charges have been paid. The executive director or his or her designee is authorized to waive any of the foregoing copying costs for requests that require only a nominal number of copies.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-140, filed 10/6/04, effective 11/6/04.]

WAC 257-02-160 Statement of reasons for denial of public records request. When the authority refuses, in whole or in part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record that is withheld.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-160, filed 10/6/04, effective 11/6/04.]

WAC 257-02-180 Protection of public records. In order to protect the public records of the authority, the following guidelines shall be adhered to by any person inspecting such public records:

- (1) No public records shall be removed from the authority's premises.

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(2) Inspection of any public record shall be conducted in the presence of a designated authority employee.

(3) No public records may be marked or defaced in any manner during inspection.

(4) Public records which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by the public records officer or designee.

(5) Access to file cabinets, shelves, and other storage areas with public records is restricted to authority employees, unless other arrangements are made with the executive director or designee.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-180, filed 10/6/04, effective 11/6/04.]

WAC 257-02-200 Exemptions. (1) The authority reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 257-02-050 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the authority reserves the right to delete identifying details when it makes available or publishes any public record, in any case when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The justification for the deletion shall be explained fully in writing by the public records officer or designee.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.230 (1) and (2). 04-20-110, § 257-02-200, filed 10/6/04, effective 11/6/04.]

Chapter 257-05 WAC

SAFETY TRAINING REQUIREMENTS

WAC

257-05-020	What is the purpose of WAC 257-05-020 through 257-05-240?
257-05-040	What definitions apply to WAC 257-05-020 through 257-05-240?
257-05-060	What is safety training?
257-05-080	What content must be included in safety training?
257-05-100	Is competency testing required for safety training?
257-05-120	Is there a challenge test for safety training?
257-05-130	When does a safety training attestation form need to be completed?
257-05-132	What does an individual provider do with the attestation form?
257-05-134	Who maintains the attestation form?
257-05-140	What documentation is required for classroom-based safety training?
257-05-160	Who is required to complete safety training and when must it be completed?
257-05-180	How often must safety training be completed?
257-05-200	Is there an alternative to safety training for some providers?
257-05-220	Does successful completion of safety training meet DSHS continuing education requirements for individual providers?
257-05-240	Will DSHS deny payment of an individual provider who does not complete safety training?

WAC 257-05-020 What is the purpose of WAC 257-05-020 through 257-05-240? The intent of WAC 257-05-

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020 through 257-05-240 is to describe the safety training requirements for an individual provider.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-020, filed 12/20/04, effective 1/20/05.]

WAC 257-05-040 What definitions apply to WAC 257-05-020 through 257-05-240? "Challenge testing" is evaluating an individual's prior learning experiences to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning outcomes of a particular course. Challenge testing demonstrates adequate knowledge in lieu of actually participating in a required course.

"Competency testing" is evaluating a trainee to determine if they can demonstrate the required level of skill, knowledge, and/or behavior with respect to the identified learning outcomes of a particular course.

"Consumer" means a person to whom an individual provider provides any personal care or respite care services under Medicaid personal care, community options program entry system, chore services program, medically needy in-home waiver, respite care program, or, respite care, personal care, chore and attendant care to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care to children receiving Medicaid personal care.

"Individual provider" means a person, regardless of relationship, including a personal aide working for a consumer under self-directed care, who has contracted with the department of social and health services to provide personal care or respite care services to persons who are functionally disabled under the Medicaid personal care, community options program entry system, chore services program, medically needy in-home waiver, or respite care program, or to provide respite care, personal care, chore and attendant care to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care to children receiving Medicaid personal care.

"HCQA" refers to the home care quality authority.

"DSHS" refers to the department of social and health services.

"AAA" refers to the local area agency on aging office.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-040, filed 12/20/04, effective 1/20/05.]

WAC 257-05-060 What is safety training? Safety training provides basic injury, illness and accident prevention information appropriate to the in-home setting and individuals served. HCQA-developed safety materials must be used for safety training of individual providers. No competency test is required.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-060, filed 12/20/04, effective 1/20/05.]

WAC 257-05-080 What content must be included in safety training? Safety training may include the use of video tapes, audio tapes and other print or electronic media. Safety training consists of introductory information in the following areas:

- (1) Overview of HCQA accident prevention program.
- (2) General home care safety.

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(3) Back injury protection in the home care environment.

(4) Slips, trips and fall prevention in the home care environment.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-080, filed 12/20/04, effective 1/20/05.]

WAC 257-05-100 Is competency testing required for safety training? There is no competency testing required for Safety training.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-100, filed 12/20/04, effective 1/20/05.]

WAC 257-05-120 Is there a challenge test for safety training? There is no challenge test for safety training.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-120, filed 12/20/04, effective 1/20/05.]

WAC 257-05-130 When does a safety training attestation form need to be completed? All individual providers must sign an attestation form upon completion of safety training. The attestation form will serve as a confirmation of completion and understanding of the safety training content.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-130, filed 12/20/04, effective 1/20/05.]

WAC 257-05-132 What does an individual provider do with the attestation form? After the individual provider signs the attestation form, the individual provider must mail the attestation form to the address identified on the form. The form must be postmarked within one hundred twenty calendar days after an individual provider has begun to work with their first DSHS consumer. Individual providers who are already working for a DSHS consumer have until December 31, 2006, to obtain the training; however, upon completion of safety training, the individual provider must sign the attestation form.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-132, filed 12/20/04, effective 1/20/05.]

WAC 257-05-134 Who maintains the attestation form? HCQA will maintain completed safety training attestation forms.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-134, filed 12/20/04, effective 1/20/05.]

WAC 257-05-140 What documentation is required for classroom-based safety training? The individual provider must maintain a signed and dated certificate of completion of safety training, issued by HCQA or any of its training contractors that provides the safety training that includes:

- (1) The trainee's name;
- (2) Title(s) of the specific information taught;
- (3) Signature of the person overseeing classroom-based safety training indicating completion of the required information;
- (4) The location or method of the safety training; and
- (5) The date(s) of the safety training.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-140, filed 12/20/04, effective 1/20/05.]

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WAC 257-05-160 Who is required to complete safety training and when must it be completed? (1) Individual providers must complete safety training no later than one hundred twenty calendar days after beginning to work with their first DSHS consumer. Safety training must be provided by appropriate HCQA staff or contracted entities, or by approved trainers who meet DSHS requirements outlined in WAC 388-71-05875.

(2) Individual providers who are already working for a consumer as of December 1, 2004, have two calendar years to complete safety training.

(3) Individual providers who are not required to complete basic core training, such as revised fundamentals of caregiving, identified in WAC 388-71-0500 through 388-71-05952 may complete safety training via distance learning. Alternate methods to complete safety training will be provided that could include innovative learning strategies such as:

- (a) CD, video, DVD, or other electronic method.
- (b) Internet-based or other computerized method.
- (c) Workbook of printed subject matter.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-160, filed 12/20/04, effective 1/20/05.]

WAC 257-05-180 How often must safety training be completed? All individual providers must complete safety training. There is no requirement for periodic refresher safety training.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-180, filed 12/20/04, effective 1/20/05.]

WAC 257-05-200 Is there an alternative to safety training for some providers? There is no alternative experience or education for safety training sponsored by HCQA. There is no waiver process for previous safety training conducted through DSHS, AAAs, or other public or private entity.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-200, filed 12/20/04, effective 1/20/05.]

WAC 257-05-220 Does successful completion of safety training meet DSHS continuing education requirements for individual providers? Safety training sponsored by HCQA meets DSHS' continuing education requirements for individual providers who are eligible to accrue continuing education credit. Individual providers who successfully complete safety training and are eligible to accrue continuing education credit may present their completion certificate to their local AAA office or their DDD or children's administration case manager for continuing education documentation.

[Statutory Authority: RCW 74.39A.280(3). 05-01-158, § 257-05-220, filed 12/20/04, effective 1/20/05.]

WAC 257-05-240 Will DSHS deny payment of an individual provider who does not complete safety training? HCQA will notify DSHS of an individual provider's noncompliance. DSHS will deny payment of an individual provider who does not return the attestation form and complete safety training within one hundred twenty calendar days after beginning to work with their first DSHS consumer.

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DSHS will deny payment of an individual provider who is already caring for a consumer as of December 1, 2004, and who does not complete the safety training by December 31, 2006.

[Statutory Authority: RCW 74.39A.280(3), 05-01-158, § 257-05-240, filed 12/20/04, effective 1/20/05.]

Chapter 257-10 WAC REFERRAL REGISTRY

WAC

257-10-020	What is the purpose of WAC 257-10-020 through 257-10-420?
257-10-040	What definitions apply to WAC 257-10-020 through 257-10-420?
257-10-060	What is the purpose of the referral registry?
257-10-080	Who is eligible to request a referral from the referral registry?
257-10-100	What is the difference between an individual provider and a prospective individual provider?
257-10-120	What qualifies individual providers or prospective individual providers to be included on the referral registry?
257-10-140	How does an individual provider or prospective individual provider apply to be listed on the registry?
257-10-160	Does an individual provider or prospective individual provider have any ongoing responsibilities to stay on the registry?
257-10-180	Are there any training requirements for being listed on the referral registry?
257-10-200	Can an individual provider or prospective individual provider be removed from the registry?
257-10-220	What is the procedure for removing an individual provider or prospective individual provider from the registry?
257-10-240	What is the procedure for the denial of an individual provider or prospective individual providers application to be listed on the referral registry?
257-10-260	Who must be notified if a complaint is received about an individual provider?
257-10-280	Are registry staff considered mandatory reporters?
257-10-300	What is reasonable cause for mandatory reporting?
257-10-320	Does an individual provider or prospective individual provider have the right to appeal being removed from the registry?
257-10-340	How does a consumer/employer apply to use the referral registry services?
257-10-360	How does a consumer/employer obtain a referral list of names?
257-10-380	Who hires an individual provider or prospective individual provider?
257-10-400	Does a consumer/employer who wants their individual provider to receive Medicaid or public funding from DSHS need to gain approval from his/her case manager?
257-10-420	How can a consumer/employer obtain emergency or critical personal care back-up referrals?

WAC 257-10-020 What is the purpose of WAC 257-10-020 through 257-10-420? The purpose of this chapter is to ensure compliance by the home care quality authority with the provisions of RCW 74.39A.250. The home care quality authority is authorized to adopt rules under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h), 05-14-113, § 257-10-020, filed 7/1/05, effective 8/1/05.]

WAC 257-10-040 What definitions apply to WAC 257-10-020 through 257-10-420? "AAA" refers to the local area agency on aging office.

"ALJ" refers to administrative law judge.

"Authority" means the home care quality authority.

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"Consumer/employer" refers to an adult or child with functional or developmental disabilities who qualifies for and uses personal care or respite care paid for through Medicaid or state only funds.

"Consumer representative" refers to an individual who is acting on behalf of the consumer/employer.

"DSHS" refers to the department of social and health services.

"Emergency" provider means an individual provider who is employed as a back-up for a provider who did not show up or who was unable to work due to unexpected circumstances.

"Employer" refers to the consumer.

"HCQA" refers to the home care quality authority.

"Individual provider" means a person, regardless of relationship, including a personal aide working for a consumer under self-directed care, who has a contract with the department of social and health services to provide personal care or respite care services to adults or children with functional or developmental disabilities and is reimbursed for those services through Medicaid or state only funding.

"IP" refers to an individual provider.

"Malfeasance" means any unlawful act committed by the provider, whether in the course of employment or otherwise.

"Mandatory reporter" is an employee of the authority; DSHS; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

"Misfeasance" means performance of a workplace duty in an improper manner; including events which jeopardize the health and safety of persons, unresolved pattern of performance, issues related to truth or dishonesty, including failure to report a criminal conviction.

"OAH" refers to the office of administrative hearings.

"Prospective individual provider" refers to someone who is seeking employment with a consumer/employer.

"Provider" means an individual provider.

"Referral registry" is a data base that is designed to assist consumers with finding individual providers and to assist individual providers to find employment.

"Respite" provider means an individual provider who is employed on a prearranged short-term basis to fill in for a routine caregiver.

"Routine" provider means an individual provider who is employed on a regularly scheduled basis.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h), 05-14-113, § 257-10-040, filed 7/1/05, effective 8/1/05.]

WAC 257-10-060 What is the purpose of the referral registry? The referral registry was designed to increase consumer/employer choice while providing assistance in finding individual providers and prospective individual providers. In addition, the referral registry:

(1) Takes into account the consumer/employer needs and preferences when identifying potential individual providers;

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(2) Provides for reasonable standards of accountability for individual providers and prospective individual providers listed through the registry;

(3) Is voluntary for individual providers and prospective individual providers and consumers/employers;

(4) Promotes job opportunities for individual providers and prospective individual providers;

(5) Provides access to the data base for consumer/employers who want to query a referral independently; and

(6) Increases a consumer/employer's choice of individual providers and prospective individual providers via an established pool of available individual providers and prospective individual providers on the registry.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-060, filed 7/1/05, effective 8/1/05.]

WAC 257-10-080 Who is eligible to request a referral from the referral registry? (1) Consumer/employers who are adults or children with functional or developmental disabilities who qualify for and use personal care or respite care paid for through Medicaid or state only funds.

(2) People who are authorized to request a referral on behalf of a consumer including family members, area agency on aging case managers, DSHS social workers and/or a consumer representative.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-080, filed 7/1/05, effective 8/1/05.]

WAC 257-10-100 What is the difference between an individual provider and a prospective individual provider? An individual provider is someone who has signed a DSHS contract. A prospective individual provider is someone who is seeking employment with a consumer/employer and who has not yet signed a DSHS contract.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-100, filed 7/1/05, effective 8/1/05.]

WAC 257-10-120 What qualifies individual providers or prospective individual providers to be included on the referral registry? The individual provider or prospective individual provider must:

(1) Satisfactorily complete a Washington state patrol background check and not be convicted of a disqualifying crime listed in RCW 43.43.830 as specified by DSHS home and community services or developmental disabilities or children's administration; and

(2) Complete an FBI fingerprint-based background check if the person has lived in the state of Washington fewer than three years;

(3) Not be listed on any long-term care abuse and neglect registry used by DSHS;

(4) Be eighteen years of age or older;

(5) Provide picture identification;

(6) Have a Social Security card or authorization to work in the United States; and

(7) Comply with requirements listed in WAC 257-10-180.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-120, filed 7/1/05, effective 8/1/05.]

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WAC 257-10-140 How does an individual provider or prospective individual provider apply to be listed on the registry? The individual provider or prospective individual provider must contact their local source of registry operations, request and complete an application packet and meet the qualifications specified in WAC 257-10-120.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-140, filed 7/1/05, effective 8/1/05.]

WAC 257-10-160 Does an individual provider or prospective individual provider have any ongoing responsibilities to stay on the registry? Yes, the individual provider or prospective individual provider must:

(1) Contact the referral registry office once a month to verify that the information in the system is accurate and up-to-date; and

(2) Successfully complete a Washington state patrol criminal history background check every twelve months.

Failure to comply with ongoing responsibilities will result in placing the individual provider or prospective individual provider in an "inactive" status. The provider will not be referred to a consumer/employer when in "inactive" status.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-160, filed 7/1/05, effective 8/1/05.]

WAC 257-10-180 Are there any training requirements for being listed on the referral registry? Yes. An individual provider or prospective individual provider must complete the "becoming a professional IP" training prior to being referred to a consumer, with the exception of any person who has already worked as an individual provider for more than three months under DSHS contract. All other mandatory training requirements established by DSHS are in effect.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-180, filed 7/1/05, effective 8/1/05.]

WAC 257-10-200 Can an individual provider or prospective individual provider be removed from the registry? Yes. An individual provider or prospective individual provider will be removed from the referral registry for the following reasons:

(1) Failure to meet the qualifications identified in WAC 257-10-120 to 257-10-180.

(2) A determination by the HCQA that the person has committed misfeasance in the performance of his or her duties as an individual provider.

(3) A determination of malfeasance.

(4) A request is made by the person to be removed from the registry.

(5) DSHS IP contract termination.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-200, filed 7/1/05, effective 8/1/05.]

WAC 257-10-220 What is the procedure for removing an individual provider or prospective individual provider from the registry? The procedure for removing an individual provider or prospective individual provider from the referral registry is as follows:

The authority and/or its designee will review all complaints and disqualification information received by the authority and:

(1) For those complaints that fall under the legal jurisdiction of law enforcement or adult protective services (APS) or child protective services (CPS), an immediate referral shall be made to the appropriate agency.

(a) The HCQA may initiate an emergency proceeding to inactivate the individual provider or prospective individual provider on the registry pending the investigation.

(b) If APS, CPS and/or law enforcement declines the referral, the complaint will proceed to assessment, recommendation and decision.

(c) If APS, CPS and/or law enforcement accepts the complaint, then action beyond the emergency adjudicative process per RCW 34.05.479, will be stayed pending APS, CPS and/or law enforcement action.

(2) For those complaints not forwarded to APS, CPS or law enforcement, HCQA will conduct an internal assessment.

(a) Upon assessment, a decision will be made and notification will be sent, in writing to the individual provider or prospective individual provider.

(b) The individual provider or prospective individual provider has the right to appeal an adverse decision within twenty-eight days of the date the formal notice was mailed by HCQA.

(c) The appeal must be sent in writing to the office of administrative hearings (OAH) as designated on the formal notice within twenty-eight days of the date the formal notice was mailed by HCQA.

(d) The OAH will schedule the hearing and notify interested parties.

(e) An administrative law judge (ALJ) from OAH shall act as presiding officer for the adjudicative proceeding as provided in RCW 34.05.425 (1)(c).

(f) The ALJ shall render an initial decision.

(g) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(h) The final order is the final agency action and will be provided to all interested parties and to the individual provider or prospective individual provider along with information regarding the right to seek judicial review in superior court when applicable.

(i) The final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-220, filed 7/1/05, effective 8/1/05.]

WAC 257-10-240 What is the procedure for the denial of an individual provider or prospective individual providers application to be listed on the referral registry? For those individual providers or prospective individual providers whose application to be listed on the registry results in a reasonable, good faith belief by HCQA that the person will be unable to appropriately meet the care needs of consumers, the following procedure applies:

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(1) An internal assessment will be conducted, a decision will be made and notification will be sent, in writing to the individual provider or prospective individual provider.

(2) The individual provider or prospective individual provider has the right to appeal an adverse decision within twenty-eight days of receiving formal notice.

(3) The appeal must be sent in writing to the office of administrative hearings as designated on the formal notice.

(4) The OAH will schedule the hearing and notify interested parties.

(5) An administrative law judge from OAH shall act as presiding officer for the adjudicative proceeding as provided in RCW 34.05.425 (1)(c).

(6) The ALJ shall render an initial decision.

(7) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(8) The final order is the final agency action and will be provided to all interested parties and to the individual provider or prospective individual providers along with information regarding the right to seek judicial review in superior court when applicable.

(9) The final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-240, filed 7/1/05, effective 8/1/05.]

WAC 257-10-260 Who must be notified if a complaint is received about an individual provider? If, in the course of carrying out its duties, the authority or its designee identifies concerns regarding the services being provided by an individual provider, the authority or its designee must notify the relevant area agency on aging case manager or DSHS social worker regarding such concerns per RCW 74.39A.250 (1)(h).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-260, filed 7/1/05, effective 8/1/05.]

WAC 257-10-280 Are registry staff considered mandatory reporters? Any HCQA staff or subcontracted staff working for the authority are considered mandatory reporters.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-280, filed 7/1/05, effective 8/1/05.]

WAC 257-10-300 What is reasonable cause for mandatory reporting? RCW 74.34.035 outlines reasonable cause for mandatory reporting.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-300, filed 7/1/05, effective 8/1/05.]

WAC 257-10-320 Does an individual provider or prospective individual provider have the right to appeal being removed from the registry? The individual provider or prospective individual provider or the consumer/employer, to whom the individual provider is providing services, may request an adjudicative hearing to contest removal from the

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referral registry, as provided in WAC 257-10-220 and RCW 74.39A.250 (1)(e).

A letter will be sent notifying the individual provider or prospective individual provider of being removed from the registry and will include information pertaining to the appeal and hearing process.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-320, filed 7/1/05, effective 8/1/05.]

WAC 257-10-340 How does a consumer/employer apply to use the referral registry services? A consumer/employer or consumer representative must complete the registration process in order to use the referral registry. The registration process conducted by local operations must confirm that the consumer/employer is qualified to use personal care or respite care paid for through Medicaid or state only funds.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-340, filed 7/1/05, effective 8/1/05.]

WAC 257-10-360 How does a consumer/employer obtain a referral list of names? The consumer/employer or consumer representative completes and submits a request application to the local source of registry operations. The completed application may indicate the days and times an individual provider is needed, the personal care tasks that need to be performed, and any preferences the consumer/employer may have. Upon completion of the application, a registry coordinator will conduct a query which will generate a list of names that best match the consumer/employer's specific criteria. The list will be given to the consumer/employer via mail, or phone, or fax or e-mail within a reasonable time frame.

Upon successful submission of a request application, a consumer/employer or consumer representative may request a user name and password to access the registry independently to generate a list of names.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-360, filed 7/1/05, effective 8/1/05.]

WAC 257-10-380 Who hires an individual provider or prospective individual provider? It is the consumer/employer or consumer representative's responsibility to interview, screen, hire and terminate an individual provider or prospective individual provider.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-380, filed 7/1/05, effective 8/1/05.]

WAC 257-10-400 Does a consumer/employer who wants their individual provider to receive Medicaid or public funding from DSHS need to gain approval from his/her case manager? Yes. DSHS or AAA may deny payment upon a client's request to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the person will be unable to appropriately meet the consumer/employer needs.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-400, filed 7/1/05, effective 8/1/05.]

WAC 257-10-420 How can a consumer/employer obtain emergency or critical personal care back-up referrals? A consumer/employer must complete an application with the referral registry office. Registry applications can be obtained by contacting the local source of registry operations. Although a consumer/employer must complete the application process he/she is not required to have previously used the registry prior to requesting back-up referrals.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). 05-14-113, § 257-10-420, filed 7/1/05, effective 8/1/05.]